



United States Department of the Interior

FISH AND WILDLIFE SERVICE

Izembek National Wildlife Refuge
P.O. Box 127
Cold Bay, Alaska 99571

Compatibility Determination

November 17, 2003

Use: Construction/Operation of Aleutians East Borough King Cove Access Project activities on King Cove Corporation, ANCSA 22(g) Lands.

Refuge Name: Izembek National Wildlife Refuge, Cold Bay, Alaska.

Establishing and Acquisition Authority:

In December 1980, Congress enacted the Alaska National Interest Lands Conservation Act (ANILCA; Public Law 96-487). This act redesignated the existing Izembek National Wildlife Range as the Izembek National Wildlife Refuge (Refuge). The Izembek National Wildlife Range was established by Public Land Order 2216, signed by Secretary of the Interior Fred A. Seaton on December 6, 1960.

The Alaska Native Claims Settlement Act (ANCSA) was enacted in 1971 to settle aboriginal land claims of Alaska's Natives by providing land and money in exchange for extinguishment of their land claims. Section 22(g) of ANCSA made National Wildlife Refuge (Izembek) lands available for selection by Native Village Corporations, but contained a provision that "...such lands remain subject to the laws and regulations governing use and development of such Refuge." These lands were deeded to the King Cove Corporation with specific restrictions, called covenants, on their sale and use.

Final Compatibility Regulations pursuant to the National Wildlife Refuge System Improvement Act of 1997 went into effect on October 18, 2000. The Code of Federal Regulations, 50 CFR 25.21(b)(1), states that compatibility determinations will be completed for uses of ANCSA 22(g) lands. Compatibility determinations, for proposed uses of 22(g) lands, will include only evaluations of how the proposed use would affect the ability of the Refuge to meet its mandated purposes [50 CFR 25.21(b)(1)(iii)]. Compatibility determinations for proposed uses of 22(g) lands will only evaluate the effects of the use on the adjacent refuge lands, and the ability of that refuge to achieve its purposes, not on the effects of the proposed use to the 22(g) lands [50 CFR 25.21(b)(1)(v)]. Therefore, only the upland aspects of this project, which are located on lands within the ANCSA boundaries of Izembek National Wildlife Range, now known as Izembek National Wildlife Refuge, are subject to the compatibility requirements.

In accordance with subsection 3(c) of the Wilderness Act of 1964 (78 Stat. 892), ANILCA, Section 702(6) designates the Izembek Wilderness Area. It states, "Izembek Wilderness of approximately three hundred thousand acres as generally depicted on a map entitled "Izembek Wilderness", dated October 1978."

Refuge purposes:

As designated by ANILCA, Section 303(3)(B):

- (i) to conserve fish and wildlife populations and habitats in their natural diversity including, but not limited to, waterfowl, shorebirds and other migratory birds, brown bears and salmonoids;
- (ii) to fulfill the international treaty obligations of the United States with respect to fish and wildlife and their habitats;
- (iii) to provide, in a manner consistent with the purposes set forth in subparagraphs (i) and (ii), the opportunity for continued subsistence uses by local residents; and
- (iv) to ensure, to the maximum extent practicable and in a manner consistent with the purposes set forth in paragraph (i), water quality and necessary water quantity within the refuge.

As designated by Wilderness Act of 1964 (16 U.S.C. 1131-1136), Section 2.(a):

“For this purpose there is hereby established a National Wilderness Preservation System to be composed of federally owned areas designated by the Congress as “wilderness areas,” and these shall be administered for the use and enjoyment of the American people in such manner as will leave them unimpaired for future use and enjoyment as wilderness, and so as to provide for the protection of these areas, the preservation of their wilderness character, and for the gathering and dissemination of information regarding their use and enjoyment as wilderness...”

National Wildlife Refuge System Mission:

The National Wildlife Refuge System Mission will not be considered in a compatibility determination evaluation with regard to lands under Section 22(g) of ANCSA, per 50 CFR 25.21(b)(1)(iii).

Description of Use:

(a) What is the use?

The Aleutians East Borough (AEB) proposes to construct a road/hovercraft transportation system project on the eastern side of Cold Bay waters. This project is described as *Alternative 1. Northeast Corner of Cold Bay Hovercraft (AEB's preferred alternative)* in the *U.S. Army Corps of Engineers, Draft Environmental Impact Statement (DEIS) dated July 2003*. The project would construct a 17.2 mile long, single lane, gravel road with a 12-foot wide road surface from the King Cove airstrip in Section 36, T.58 S., R.86 W., Seward Meridian to a Northeast Cold Bay (NeCB) hovercraft terminal located in Section 17, T.57 S., R.87 W., Seward Meridian. Another hovercraft terminal, named Cross Wind Cove (CWC), would be located in the community of Cold Bay in Section 31, T.57 S., R.88 W., Seward Meridian. A hovercraft capable of transporting vehicle(s) and passengers would operate between the hovercraft terminal sites.

The portion of the project to be addressed in this determination consist of the following: The construction and operation of a 5.6 mile long gravel road; a hovercraft terminal area; a 2.0 acre disposal site for volcanic ash; and two temporary (during construction only) barge landing sites.

The 5.6 mile long road would consist of a 12 foot wide travel lane, that has an average toe-toe road footprint of 53.2 feet. The total footprint would be 29.5 acres. Total fill would be 175,418 cubic yards and total excavation would consist of 122,972 cubic yards. A total of 52 culverts would be installed, two placed in anadromous fish streams. Vehicle turnouts would be spaced approximately every 1,000 feet. Each turnout would be about 75 feet long and 10 feet wide with a footprint of 750 square feet (0.02 acres).

The hovercraft terminal area would be located on the northeast shore of Cold Bay, It would comprise a total footprint of 5.43 acres (4.94 acres above High Tide Line (HTL) and 0.39 acres below HTL). Total fill would be 43,540 cubic yards. Ash and organic material, totaling 2,000 cubic yards, would be used to develop a partial buffer between the hovercraft access ramp/maneuvering pad and the nearby freshwater pond. Organic material removed from the hillside excavation would be used for reclamation of the 3:1 hillside cut. Facilities would include 110' long x 82' wide x 40' high hangar on concrete pad; water/sewer systems; 35 kilowatt diesel generator; buried electrical system for lighting, etc; 6,000 gallon bulk fuel storage (two 3,000 gallon tanks in a lined retention basin); 0.26 acre articulated concrete block mat for access ramp; 0.69 acre gravel maneuvering pad; and 0.21 acre gravel public parking.

The disposal site for volcanic ash would be located at Road Mile 13.2 (Station 2700). The site is also identified in the DEIS as "Excavation Disposal Site #5". The site would have a footprint of 2.0 acres. It is estimated to include a volume of 16,000 cubic yards.

Temporary barge landing sites would be located at Road Mile 13.0 (Station 2686) and Road Mile 17.2 (Station 2910) during the construction phase only. The temporary barge landing site at Station 2910 would be converted into the hovercraft access ramp. Each landing would have a footprint of about 0.09 acres and would have a top width of 12 feet for crew, equipment, and supply access to and from a shallow water barge.

(b) Where would the use be conducted?

Intended use, covered under this determination, would only occur on King Cove Corporation, ANCSA 22(g) surface estate lands. The subsurface lands are owned by the U. S. Fish and Wildlife Service (USFWS). The lands are located in Sections 4 and 9, T.57 S., R.87 W., Seward Meridian and Sections 17, 20, 29, and 32, T.58 S., R.87 W., Seward Meridian.

The closest adjacent Refuge lands would be between 0.5 miles and 1.5 miles from the project site, and can be found in Sections 9, 10, 15, 22, 27, and 34, T.57 S., R.87 W., Seward Meridian.

(c) When would the use be conducted?

Project construction would be initiated in 2004 and completed within three construction seasons. Daily operation of the hovercraft and unlimited public use of the road would begin upon completion of construction.

(d) How would the use be conducted?

The hovercraft is proposed to make one round trip, from NeCB to CWC, six days a week. The intent is to operate during daylight hours transporting at least one vehicle and 80-130 passengers at maximum capacity. The hovercraft is to be constructed for drive-on/drive-off capabilities for at least one vehicle, the King Cove ambulance. Emergency use would occur as needed.

The hovercraft crew would also serve as maintenance for the hovercraft, hangar/terminal facilities, and the road. They would be housed year-round at the terminal facility.

The 5.6 mile long road would be open to the public year-round.

(e) Why is the use being proposed?

The project described above is the Aleutians East Borough's Proposed Project. The basic purpose of the project is to provide a transportation system between the City of King Cove and Cold Bay Airport. The overall project purpose is to construct and operate a long term, year round transportation system between the cities of King Cove and Cold Bay that is:

- safe, reliable, and comfortable for citizens of all ages and physical being;
- relatively simple to operate and maintain, suitable for Alaska rural marine communities and Alaska Peninsula coastal weather conditions; and
- provides for safe, reliable, and efficient medical evacuations.

Availability of resources:

The construction and operation of a 5.6 mile long gravel road; hovercraft terminal area; 2.0 acre disposal site for volcanic ash; and two temporary (during construction only) barge landing sites on King Cove Corporation ANCSA 22(g) lands will not result in an increase of costs for the Refuge staff to administer or manage.

There will be increased access by the public onto the King Cove Corporation ANCSA 22(g) lands via the 5.6 mile long gravel road. This access will include all forms of transportation, including off-road vehicles (ORV). There is an increased potential that unauthorized ORV use will occur on adjacent Refuge lands. The DEIS states that under this alternative, the USFWS would need to hire a six month seasonal employee to monitor Refuge lands for vehicle trespass and other illegal actions. This would be a new law enforcement officer position that is currently not funded. The cumulative impact to the USFWS budget would be negligible.

Anticipated impacts of the use:

The U.S. Army Corps of Engineers, *King Cove Access Project, Draft Environmental Impact Statement, July 2003* provides an analysis of the potential impacts. Following are mitigation measures (project modifications) designed to reduce or eliminate impacts on adjacent Refuge lands which could materially interfere with or detract from the purposes of Izembek NWR:

- Take all practicable measures to prevent uncontrollable vehicle or boat access to the Izembek NWR Wilderness Area or other important wildlife concentration areas in upper Cold Bay. Notable measures will include the installation of cable barriers and fencing as appropriate to restrict motor vehicles to the road and NeCB hovercraft terminal and the installation and maintenance of informational signs to prevent the illegal use of motorized vehicles in the Izembek Wilderness Area;
- Shield external lighting to prevent bird strikes;
- Prohibit boat launching and retrieval at the NeCB hovercraft terminal to avoid project-induced impacts to trust resources that inhabit adjacent Refuge lands;
- Stop work if threatened or endangered species are seen during construction and contact appropriate Federal agency;
- Prohibit blasting during the brown bear denning season of October 21 through June 15 unless preceding spring bear denning survey indicates no denning in the vicinity; and
- Revegetate disturbed sites with native plant species or seed mixtures that avoid establishment of non-indigenous plants.
- Restrict land clearing activities to avoid take of migratory birds and active nests;
- All solid or putrescible waste from the project shall be removed or otherwise disposed of in a DEC approved method and all efforts made to prevent bears and other wildlife from being attracted to or having access to food or garbage.
- Construction activities shall coordinate with Refuge staff to avoid any activities which may interfere with or potentially disturb nesting bald eagles during the period March through August of each year.
- Project personnel, contractors and others shall not use construction project access to reach Refuge areas for hunting and trapping that are not available to the general public.
- Submit a comprehensive Fish and Wildlife Protection Plan describing specific measures to be implemented to protect important fish and wildlife resources during project construction and operation.

Based on these project modifications, the construction and operation impacts to adjacent Refuge lands and waters from/to noise, soils, water quality, terrestrial and wetland habitats, fish, and wildlife have been determined to be none to negligible.

Public review and comment:

The U.S. Army Corps of Engineers, *King Cove Access Project, Draft Environmental Impact Statement, July 2003* was used as the document for public review and comment in relation to the required compatibility determination. Only Alternative 1 required a compatibility determination, all other alternatives did not.

In addition to the DEIS and Appendices being posted on the Internet on the web site at <http://kingcoveaccessseis.com>, copies were also available at local agency offices and Alaska public libraries. Copies were also available from the U.S. Army Corps of Engineers.

Three public workshops followed by public hearings were held during the comment period in Cold Bay, King Cove, and Anchorage, Alaska. Comments concerning the compatibility determination were to be included as comments concerning the EIS and/or mailed directly to USFWS.

Comments Received

The Wilderness Society and several other public comments indicated an analysis of ANCSA 22(g) compatibility, of the King Cove Corporation lands, must meet the purposes of the Izembek National Wildlife Refuge and Izembek Wilderness Area.

The USFWS has been requested by the Aleutians East Borough, on behalf of the King Cove Corporation, to prepare a compatibility determination evaluating Alternative 1, the proposed project under ANCSA Section 22(g). Alternative 1 would be located on lands conveyed from Izembek National Wildlife Refuge, which was established prior to ANCSA. Title 50 of the Code of Federal Regulations (CFR) outlines the requirements for completing compatibility determinations for uses of ANCSA Section 22(g) lands. Title 50 CFR 25.21(b)(1)(v) states, "Compatibility determinations for proposed uses of 22(g) lands will only evaluate the effects of the use on the adjacent refuge lands, and the ability of that refuge to achieve its purposes, not on the effects of the proposed use to the 22(g) lands." Therefore, a compatibility determination pursuant to ANCSA Section 22(g) is required which evaluates the effects of project components that would be constructed on lands conveyed from within Izembek National Wildlife Refuge and the effects project components would have on adjacent refuge lands [50 CFR 25.21(b)(1)(v)].

Other comments asserted that the Preferred Alternative, Alternative 1 is incompatible. The information and comments provided have been included or considered in the Refuge Manager's compatibility determination analysis.

Determination:

☐ Use is Not Compatible

☒ Use is Compatible

Stipulations Necessary to Ensure Compatibility:

The mitigation or project modifications would need to be implemented and appropriately maintained through the life of the project.

Justification:

I find this use COMPATIBLE, based on my personal experience, knowledge of the Refuge, the best science available, principles of fish and wildlife management and administration, and other applicable laws. This use will not materially interfere with or materially detract from fulfilling the purposes of the adjacent Refuge.

Signatures:

Refuge Manager:

Rick D. Poetter
(Signature)

Date: 11/17/03

Concurrence:

Regional Chief,
National Wildlife Refuge System:

Mike Boylen (Acting)
(Signature)

Date: 11/17/03

Mandatory 10-Year Re-Evaluation Date:

Re-evaluation is not required for compatible uses on 22(g) lands unless the use changes significantly, significant new information is made available that could affect the compatibility determination, or if requested by the landowner.